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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,372	12/24/2001	Jean Marc Paulin	3882/12	8034

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EXAMINER

ORTIZ, BELIX M

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/026,372

Applicant(s)

PAULIN, JEAN MARC

Examiner

Belix M. Ortiz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/24/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

DOV POPOVICI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: in figure 2, reference character "208" and in figure 5, reference characters "504", "508", and "512" are not described in the written description. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Specification

3. The abstract of the disclosure is objected to because it consists of multiple paragraphs.

The abstract should be in narrative form and generally limited to a single paragraph. Correction is required. See MPEP § 608.01(b).

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4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 7, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Reps et al. (U.S. patent 6,070,190).

As to claim 1, Reps et al. teaches a method for recording a user's steps in a transaction (see column 5, lines 39-42 and column 7, lines 40-52) the method comprising:

retrieving an information resource as a step in the transaction (see column 6, lines 37-39 and column 5, lines 58-62);

capturing service level thresholds and the time required to retrieve the information resource (see column 2, lines 25-37 and column 6, lines 6-10); and

recording the service level thresholds and parameters regarding the information resource in a transaction data file in a form configured to support playback of the transaction (see column 3, lines 21-23 and column 5, lines 24-30).

As to claim 2, Reps et al. teaches the method comprising aborting the step of retrieving when a timeout threshold is exceeded (see column 5, lines 31-37).

As to claim 3, Reps et al. teaches wherein recording parameters comprises recording an address and port of the information resource (see column 5, lines 46-54).

As to claim 4, Reps et al. teaches the method comprising generating conditional logic used to instruct service software as to a correct service level code to return based on the service software's time to retrieve the information resource (see column 12, lines 66-67; column 13, lines 1-9; and column 16, lines 7-11).

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As to claim 5, Reps et al. teaches wherein generating conditional logic comprises generating conditional logic defining service levels of GOOD, MARGINAL, and FAILED (see column 2, lines 28-34; column 3, lines 39-42; and column 4, lines 5-14).

As to claim 7, Reps et al. teaches a method for testing a level of service of a navigation transaction (see abstract), the method comprising:

identifying a first step within the transaction from a stored transaction data file (see column 23, lines 27-31);

executing the first step by attempting to retrieve an information resource identified by the step (see column 23, lines 31-35); and

returning a level of service for a server hosting the information resource identified by the step (see column 23, lines 35-39).

As to claim 11, Reps et al. teaches a system for testing a level of service for a transaction (see abstract), the system comprising:

transaction recorder software operative to capture service level thresholds and time required to retrieve a requested information resource, the transaction recorder software further operative to generate conditional logic used to instruct service software as to a correct service level code to return based on the service software's captured time to retrieve the information resource (see column 2, lines

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25-37; column 6, lines 6-10; column 12, lines 66-67; column 13, lines 1-9; and column 16, lines 7-11); and

service software operative to attempt to retrieve the requested information resource and return a level of service defined by the conditional logic based on the amount of time required to retrieve the information resource (see column 17, lines 6-17).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reps et al. (U.S. patent 6,070,190) in view of Marullo et al. (U.S. patent 6,044,398).

As to claim 8, Reps et al. does not teach the method comprising:
identifying one or more subsequent steps within the transaction;
executing the one or more subsequent steps by attempting to retrieve
information resources identified by the subsequent one or more steps; and

returning levels of service for servers hosting the information resources identified in the subsequent one or more steps.

Marullo et al. teaches virtual dynamic browsing system and method for automated web server and testing (see abstract), in which he teaches the method comprising:

identifying one or more subsequent steps within the transaction (see column 30, lines 54-57);

executing the one or more subsequent steps by attempting to retrieve information resources identified by the subsequent one or more steps (see column 3, lines 10-12); and

returning levels of service for servers hosting the information resources identified in the subsequent one or more steps (see column 6, lines 30-37).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Reps et al., to include the method comprising:

identifying one or more subsequent steps within the transaction;

executing the one or more subsequent steps by attempting to retrieve information resources identified by the subsequent one or more steps; and

returning levels of service for servers hosting the information resources identified in the subsequent one or more steps.

It would have been obvious to a person having ordinary skill in the

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art at the time the invention was made to have modified Reps et al. by the teaching of Marullo et al., because the method comprising:

- identifying one or more subsequent steps within the transaction;
- executing the one or more subsequent steps by attempting to retrieve information resources identified by the subsequent one or more steps; and
- returning levels of service for servers hosting the information resources identified in the subsequent one or more steps, would enable the method to retrieve the next step the transaction needs to perform, to finish with the transaction of the user and depending on the execution of the transaction is the level of service.

As to claim 9, Reps et al. as modified teaches the method comprising calculating an amount of time to execute the first step (see Reps et al., column 2, lines 25-37 and column 6, lines 6-10).

As to claim 10, Reps et al. as modified teaches wherein the step of returning the level of service comprises calculating the level of service based on the amount of time required to execute the first step (see Reps et al., column 17, lines 6-17).

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reps et al. (U.S. patent 6,070,190) in view of Dean et al. (U.S. patent 6,442,585).

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As to claim 6, Reps et al. does not teach wherein recording comprises recording the step information in a hierarchy, each step comprising an entry in the hierarchy with the transaction being a top level of the hierarchy.

Dean et al. teaches method for scheduling contexts based on statistics of memory system interactions on a computer (see abstract), in which he teaches wherein recording comprises recording the step information in a hierarchy, each step comprising an entry in the hierarchy with the transaction being a top level of the hierarchy (see column 2, lines 66-67; column 3, lines 1-3; and column 5, lines 42-46).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Reps et al., to include wherein recording comprises recording the step information in a hierarchy, each step comprising an entry in the hierarchy with the transaction being a top level of the hierarchy.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Reps et al. by the teaching of Dean et al., because wherein recording comprises recording the step information in a hierarchy, each step comprising an entry in the hierarchy with the transaction being a top level of the hierarchy, would enable the method to facilitate the recording of a user's navigation steps within a transaction and playback of those steps in the order they are stored (hierarchy order).

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Conclusion


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Belix M. Ortiz whose telephone number is 703-305-7605. The examiner can normally be reached on Monday-Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

bmo

April 14, 2004


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